

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** May 4, 2004

**To:** The Commission  
(Meeting of May 6, 2004)

**From:** Alan LoFaso, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** AB 2803 (Horton): Public Utilities Commission: Office of Economic  
Development.  
As Amended April 27, 2004

**Legislative Subcommittee Recommendation:** Support, if amended.

**Summary:** This bill would require the Commission to consider economic impact analysis in specified proceedings.

**Digest:** Existing law, Cal. Const. art. XII, sec. 2, empowers the Commission to establish its own procedures, subject to statute and due process.

Existing law, P.U. Code sec. 321.1, states legislative intent that the Commission assess the economic effects or consequences of its decisions as part of each ratemaking, rulemaking, or other proceeding, using existing resources and within existing Commission structures. Existing law further prohibits the Commission from establishing a separate office or department to evaluate the economic development consequences of its activities.

This bill would require the Commission to designate in scooping memos the need to perform and economic analysis in specified proceedings.

This bill would prohibit any additional costs arising from its provisions from being borne by ratepayers or the general fund.

**Analysis:** Collectively, the Commission regulates public utilities with annual revenues of over \$40 billion/year. These utilities undertake annual capital investments of several billion dollars annually. Through its oversight and regulatory functions, the Commission has significant influence over how these investments are made. In some cases, this is done through direct regulation (i.e the Commission directing a utility to make necessary

investments). In other industries that have been opened up to greater competition, the Commission has established a regulatory regime that serves as a platform for private investment (i.e. opening the local telephone market to competition).

The effect of Commission regulation in promoting economic development is substantial. Critical to the success of any business is the provision of adequate infrastructure such as reliable electric, gas, and water service as well as access to a telecommunications infrastructure capable of supporting today's high-technology requirements. For many manufacturing industries, efficient railroad transportation is equally important.

The siting, provision, and location of public utility services is also a key component in community economic development. The Commission's oversight of railroad grade crossings also can affect and promote community development by alleviating traffic and safety concerns.

Equally important, the cost of public utility services is an input factor in economic decisions of businesses to expand/relocate within California. Given the higher energy rates imposed upon California to deal with the after-effects of restructuring, California's electric rates are not competitive with those of most other states. Ensuring that rates are reasonable for the other industries the Commission regulates is also important.

Despite the significant effect that Commission regulation has on economic development within California, there is currently no single entity responsible for coordinating these activities and ensuring that economic development concerns are being fully considered in formal matters before the Commission.

This bill originally would have established such an entity responsible for reviewing, understanding, and coordinating economic development implications of Commission actions. However, the Assembly Utilities and Commerce (U&C) Committee rejected the concept of an office, while supporting the goal of economic impact analysis. The committee then moved to amend the bill to require economic impact analyses to be conducted as part of quasi-legislative and rate-setting proceedings. Discussion in the U&C Committee contemplated further refinements to focus on major proceedings calling for economic impact analysis.

Although the Legislative Subcommittee expressed clear preference for an Office of Economic Development, it opted to support the measure if amended to address a number of technical concerns and address the impact on staff and the agency to fulfill the intent of the bill.

Attach in this memo is language developed with the assistance of ALJ and Strategic Planning divisions. These amendments:

- Clarify technical language to be consistent with Commission practice;

- Clarify that economic analysis is to be provided by parties, subject to evaluation and consideration by the Commission, as specified; and
- Authorize reimbursement of appropriate costs.

### **Suggested Amendments:**

1701.7. (a) If the commission determines that a ratemaking or quasi-legislative case requires a hearing pursuant to Section 1701.1, the assigned commissioner or the assigned administrative law judge shall designate in the scoping memorandum whether there is a need to ~~perform an~~ **develop a record on the** economic impact analysis **of the issues presented in the proceeding**. ~~In determining whether an economic impact analysis is~~ **If a record on the economic impact of the issues presented in the proceeding is determined to be** necessary, **parties, including but not limited to public utilizes, shall provide a showing to** the assigned commissioner or the assigned administrative law judge shall assess whether the ratemaking or quasi-legislative case is likely to affect employment, capital investment, infrastructure deployment, public safety, or any other element determined to be of economic significance. If the assigned commissioner or the assigned administrative law judge determines that a **record on the** an economic impact analysis is necessary, the **appropriate** findings of the analysis **regarding the economic impact** shall be included as a part of the final written decision.

**(b) Parties, including but not limited to public utilizes, shall have the burden of demonstrating by a preponderance of the evidence that the economic impact analysis meets any of the criteria listed in subdivision (a). In considering these criteria, the commission shall find, on balance, that the proposed transaction is in the public interest in terms of economic impact.**

~~—(b) Any additional cost to the commission resulting from the implementation of subdivision (a) shall not be borne by ratepayers or the General Fund.~~

**(c) The Legislature finds and declares that, to the extent that an economic impact analysis is required, that analysis may require resolution of the proceeding later than 18 months from the scoping memo issuance, consistent with section 1701.5(b). It is the intent of the Legislature that the analysis required by this Section, shall be required for proceedings initiated on or after the effective date of this statute.**

**(d) The commission's costs of studying and evaluating the economic impacts shall be reimbursable from the utilities, including the costs of any required consultants.**

### **LEGISLATIVE HISTORY**

Asm. U&C: 10-0 (do pass) (4/12/04)

Asm. Jobs, E.D.&E.: 9-0 (do pass as amended) (4/12/04)

**FISCAL IMPACT**

It is anticipated that the workload for economic impact analysis would be incorporated into the ongoing work associated with the affected proceedings. Proposed amendments are intended to clarify this approach by emphasizing the role of parties in submitting economic impact analysis for review by the Commission, although it is apparent that the current version of the bill reflects this intent.

Proposed amendments also seek to clarify that the Commission may be reimbursed for appropriate costs, as provided for within existing law. In other contexts, reimbursement of consultant costs to evaluate a submitted analysis, for example, allows the Commission to manage its workload within existing budgeted resources.

**SUPPORT/OPPOSITION**

Support: California Chamber of Commerce (sponsor); California Independent Grocers & Convenience Stores (CIGCS); California Manufacturers & Technology Association (CMTA); Pacific Gas & Electric (PG&E); SBC; Sempra; Verizon.

Opposition: TURN.

**LEGISLATIVE STAFF CONTACT**

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**Date:** May 4, 2004

**BILL LANGUAGE:**

BILL NUMBER: AB 2803    AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY    APRIL 27, 2004  
AMENDED IN ASSEMBLY    APRIL 14, 2004  
AMENDED IN ASSEMBLY    MARCH 26, 2004

INTRODUCED BY    Assembly Member Jerome Horton

FEBRUARY 20, 2004

An act to add Section 1701.7 to the Public Utilities Code,  
relating to the Public Utilities Commission.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2803, as amended, Jerome Horton. Public Utilities Commission:  
hearings.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law requires the commission to determine whether a proceeding requires a quasi-legislative, an adjudication, or a ratesetting hearing.

This bill would require ~~that when~~ , if the commission determines that a ratesetting or quasi-legislative case requires a hearing, *that* the assigned commissioner or administrative law judge designate in the scoping memorandum ~~the~~ *whether there is a* need to perform an economic impact analysis ~~and if~~ . *The bill would require the assigned commissioner or the assigned administrative law judge, in determining whether an economic impact analysis is necessary, to assess whether the ratemaking or quasi-legislative case is likely to affect prescribed elements of economic significance. The bill would require, if the assigned commissioner or the assigned administrative law judge determines that an economic impact analysis that is needed necessary , to include that the findings of the analysis be included as a part of the final written decision.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1701.7 is added to the Public Utilities Code, to read:

1701.7. (a) If the commission determines that a ratemaking or quasi-legislative case requires a hearing pursuant to Section 1701.1, the assigned commissioner or the assigned administrative law judge shall designate in the scoping memorandum ~~the~~ *whether there is a* need to perform an economic impact

analysis. ~~If a determination is made~~ In determining whether an economic impact analysis is necessary, the assigned commissioner or the assigned administrative law judge shall assess whether the ratemaking or quasi-legislative case is likely to affect employment, capital investment, infrastructure deployment, public safety, or any other element determined to be of economic significance. If the assigned commissioner or the assigned administrative law judge determines that an economic impact analysis is ~~required~~ necessary, the findings of the analysis shall be included as a part of the final written decision.

(b) Any additional cost to the commission resulting from the implementation of subdivision (a) shall not be borne by ratepayers or the General Fund.